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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
ID# 4561
RESOLUTION E-3930
May 26, 2005

R E S O L U T I O N

Resolution E-3930. This resolution establishes a Process for Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE) to pass through rate changes for transmission costs that have been filed with and become effective at the Federal Energy Regulatory Commission (FERC).

SUMMARY

This resolution establishes a Process for Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE) to pass through rate changes for transmission-related costs that have been filed with and become effective at the Federal Energy Regulatory Commission (FERC).

This resolution establishes a Process to remedy the time gap that otherwise might occur between the date FERC rates become effective pursuant to federal law and the date the California Public Utilities Commission (CPUC or Commission) can review and approve implementation of the rates pursuant to state law.

BACKGROUND

On numerous occasions the utilities have filed advice letters requesting revisions to FERC-authorized electric transmission rates¹ that have had to be suspended until the Commission could approve the rate adjustments by Resolution.

SDG&E filed Advice Letter 1615-E on August 16, 2004 requesting revisions to FERC-authorized electric transmission rates effective September 1, 2004. Subsequently, by letter from Energy Division dated August 25, 2004, the Commission suspended AL 1615-E informing SDG&E that it could not implement the rate change until it received Commission approval by Resolution. On September 23, 2004, the Commission adopted Resolution E-3891, which approved SDG&E's transmission rates filed by SDG&E's advice letter, effective October 1, 2004. This situation created a one-month period of under-collections in transmission revenues between the FERC-authorized date and the CPUC-approved date.

In compliance with Resolution E-3891, SDG&E subsequently filed Advice Letter 1632-E on October 22, 2004. SDG&E proposed to recover the FERC-authorized transmission revenues for the period September 1 to October 1, 2004 through its Annual Transmission filing, which will be filed with the FERC in August 2005 for rates effective September 1, 2005. AL 1632-E was approved by Energy Division on November 15, 2004.

On November 5, 2004, SDG&E filed Advice Letter 1636-E, requesting revision of transmission and reliability services (RS) rates effective January 1, 2005 as authorized by FERC. Similar to its treatment of AL 1615-E, Energy Division suspended AL 1836-E until the Commission could approve the rate revisions by Resolution. On January 13, 2005, the Commission adopted Resolution E-3908, approving SDG&E's transmission and RS rates filed by AL 1636-E effective February 1, 2005. Again, this situation created a one-month period of under-

¹ Unless otherwise specified, the term "transmission rates" as used in this Resolution and approved Process includes all FERC-jurisdictional electric transmission rates and associated balancing accounts such as TAC, TRBAA, TACBAA, RS, and RSBA.

collections in revenues between the FERC-authorized date and the CPUC-approved date.

In compliance with Resolution E-3908, which directed SDG&E to propose a method to recover transmission and reliability services revenues for the period January 1 to February 1, 2005, SDG&E subsequently filed Advice Letter 1663-E on February 9, 2005. SDG&E intends to recover the revenues for the period January 1 to February 1, 2005 through its annual Transmission Revenue Balancing Account Adjustment (TRBAA), Transmission Access Charge Balancing Account Adjustment (TACBAA), and Reliability Services (RS) rates and cost of service filings to be submitted to the FERC in December 2005 for rates effective January 1, 2006. On March 7, 2005, Energy Division approved AL 1663-E effective February 9, 2005.

SCE filed Advice Letter 1830-E on October 7, 2004 for changes to its electric transmission reliability services (RS) revenue requirement in accordance with its filing with FERC. By letter from the Energy Division on October 29, 2004, SCE was informed that SCE's rate change could not be put into effect without further action by the Commission. SCE was advised it should not make the rates filed in the advice letter effective on November 1, 2004 as requested and not until it received Commission approval. SCE's AL 1830-E was approved by Resolution E-3897 for a rate increase effective November 19, 2004, effectively resulting in an under-collection period over two weeks from November 1 through November 19.

Pursuant to Ordering Paragraph No. 6 of Resolution E-3897, SCE filed Advice Letter 1848-E on December 20, 2004, proposing a method to recover the FERC-authorized revenues that SCE had not billed its customers from November 1 through December 31, 2004. Due to billing constraints and the implementation of previously scheduled rate changes, SCE was not able to begin billing its customers for the rate change authorized in Resolution E-3897 until January 1, 2005. SCE proposed to transfer revenue from its Base Revenue Requirement Balancing Account (BRRBA) to the Reliability Services Balancing Account (RSBA). This transfer resulted in a correctly stated RSBA balance (and FERC revenue recovery) but an increased under-collected BRRBA balance. The BRRBA balance will be amortized in SCE's future rate levels pursuant to SCE's Commission-approved rate consolidation process. On January 7, 2005, Energy Division approved AL 1848-E effective December 20, 2004.

DISCUSSION

Discussion of the principles that lead to the recommended Process is below.

Electric transmission revenue requirements and associated rates are subject to FERC jurisdiction.

Upon electric restructuring and the establishment of the California Independent System Operator (ISO), electric transmission revenue requirements and associated rates became subject to FERC jurisdiction beginning in 1998. The utilities file their transmission rate cases at FERC.

The utilities file annually with the FERC, typically at the end of each year, for adjustments to their transmission rates and associated balancing account rates, such as the Transmission Access Charge Balancing Account Adjustment (TACBAA), Transmission Revenue Balancing Account Adjustment (TRBAA), and Reliability Service Balancing Account Adjustment (RSBAA). On occasion, because of circumstances not anticipated or forecast by the utility, the utilities have needed to file additional interim rate adjustments during the year.

Presently, the CPUC's role is to represent the interests of California consumers before the FERC.

The CPUC does not have the authority over transmission-related revenue requirements, although we routinely file as an intervener in the proceedings at FERC.

Filed rate doctrine provides for a pass through of these FERC-jurisdictional rates.

Under the filed rate doctrine applicable to these FERC-jurisdictional rates, the CPUC is obligated to pass through these FERC-authorized transmission cost of service requirements to the utilities' customers. The passing through of these cost of service requirements to the utilities' customers does not involve the promulgation of "general rates," or the establishment of a new general rate structure. Rather, the rates involved here pass through an adjustment to a FERC-jurisdictional category of costs.

The revised rates and cost of service requirements that are filed with and become effective at the FERC are just and reasonable, provided that those rate adjustments are subject to refund to the same extent as they are at the FERC.

The utilities document their revisions to the various transmission and balancing account cost of service requirements and associated rates, along with supporting testimony, in their filings with FERC. Consistent with the filed rate doctrine, it is just and reasonable under State law for the utilities to recover through retail rates the transmission rates that are filed with and become effective at the FERC, provided that those rate adjustments are subject to refund to the same extent as they are at the FERC.

In the event FERC authorizes different rates than requested, the utilities will immediately file an advice letter or supplement to adjust their rates prospectively as ordered by the FERC. Where the FERC directs refunds of rates previously passed through to customers, the utility shall file, within 30 days of the FERC action, an advice letter proposing a method for these refunds to be passed through into retail rates. Refunds shall commence as soon as authorized by the FERC, subject to Staff and, if necessary, Commission review.

This resolution establishes a process whereby the utilities can start recovering their FERC-jurisdictional revenue requirements pending CPUC resolution of any disputed issues.

In addition, it establishes guidelines for the Energy Division to approve FERC-jurisdictional rate changes in specified situations without bring a resolution before the Commission.

A. The Utilities should file advice letters to implement FERC-jurisdictional rate changes with the CPUC concurrent with their filing at the FERC to allow this Commission sufficient time to act.

When a utility files at FERC for a revision in rates for its customers, the utility should concurrently or as soon as possible thereafter file an advice letter with this Commission passing through the requested rate revisions. The utilities should file these advice letters with this Commission on or very near the date the rate requests are filed with the FERC, even if this means filing the advice letter before the precise amount of the FERC-jurisdictional rate revision is known in order to give this Commission sufficient time to act.

The utilities should update their advice letter with a supplement whenever the requested rate changes are approved or modified at the FERC, as appropriate.

To expedite the handling of these advice letters and any supplements, authority to approve them should be delegated to Staff to the maximum extent feasible.

B. Implementing the full rate change should not increase residential Tier 1 and Tier 2 rates above Assembly Bill (AB) 1X limitations.

Consistent with D.04-02-057 and AB 1X, total energy charges for residential usage up to 130% of the authorized baseline quantity are limited to levels in effect on February 1, 2001.

Recently, when the Commission has approved a transmission rate change that would otherwise result in exceeding the AB 1X limitations, the Commission has authorized utilities to decrease generation charges for usage up to 130% of baseline by an amount equal to the transmission rate increase, and re-allocate that generation revenue shortfall to residential tiers not limited by AB 1X. However, the utilities have been required to track these re-allocated generation charges in an account for possible further re-allocation if the Commission later approves a different rate methodology.

C. In its advice letter, the utility should propose an allocation of the rate change based on the most recent CPUC-approved rate design.

If there is an allocation issue on which the Commission has not articulated a policy, the utility may propose an interim method of allocation. The CPUC Energy Division may authorize the utility to implement the rate change subject to the conditions that the revenues so collected will be tracked separately and be subject to possible refund upon the Commission's decision on any disputed allocation issue if necessary.

Presently, an example of such a disputed issue is the allocation of the revenue shortfall resulting from AB 1X limitations. In its advice letter, the utility should propose a methodology for keeping overall rates for residential usage up to 130% of baseline rates within the limits required by AB 1X. This methodology should be consistent with the utility's most recent CPUC-approved rate design. Unless otherwise directed by the Commission, that advice letter should propose an

interim allocation method to collect the required revenues while adhering to the AB 1X limitations. The revenues collected using the interim approach should be tracked and be subject to possible re-allocation upon the Commission decision on how the shortfall should be allocated.

The new Process approved in this Resolution has the following elements:

1. The Commission recognizes that under the filed rate doctrine, the Commission should allow a pass through of these transmission rates that are filed with and become effective at the FERC.
2. It is just and reasonable for the utilities to charge their customers rate increases that have been filed with, and become effective, at the FERC; provided that those rate increases are subject to refund to the same extent as they are at the FERC.
3. When a utility files at FERC for a revision in rates for the utility's customers, the utility shall concurrently or as soon as possible thereafter file an advice letter with the Commission passing through the requested revisions in rates. The utilities shall file these advice letters on or very near the date any requested revision in transmission rates is filed with the FERC, even if this means filing the advice letter before the precise amount of the FERC-jurisdictional rate revision is known, in order to give this Commission sufficient time to act.
4. The utilities shall update their advice letters with a supplement whenever the requested rate changes are approved, modified, or denied at the FERC, as appropriate. The effective date of the supplemental advice letter shall be the same as the effective date of the original advice letter, unless otherwise requested by the utility to facilitate its billing. If FERC orders changes to transmission rates by a utility after those rates have gone into effect at the Commission, the utility shall file a separate advice letter.
5. If there is an allocation issue on which the Commission has not articulated a policy; e.g., revenue shortfalls resulting from AB 1X limitations, the utility may propose an interim method of allocation. The CPUC Energy Division may authorize the utility to implement the rate change subject to the conditions that the revenues so collected shall be tracked separately

and be subject to possible refund upon the Commission's decision on any disputed allocation issue if necessary.

6. Energy Division shall be authorized to approve advice letters and supplements requesting a pass through of transmission rates that are effective at the FERC without bringing a Resolution before the Commission if the following three conditions are met:
 - a. There was no timely protest concerning the rate design for distributing any under-collection in CPUC-jurisdictional rates created by the cap on rates for residential use up to 130% of baseline;
 - b. The Energy Division staff determines that the advice letter complies with the Commission's orders and state law at the time; and
 - c. The Energy Division staff determines that the advice letter correctly reflects the FERC rates.
7. If any of the above conditions are not met, Energy Division will present a Resolution to the Commission for approval.
8. Energy Division shall not approve an advice letter or supplement before the protest period has expired.
9. In the case of a transmission rate increase, if between the filing date of the advice letter or supplement and the effective date of the FERC rates, Staff has not approved the advice letter or supplement and the Commission has not approved a resolution, the FERC rates shall go into effect on the FERC-effective date.
10. Where rate decreases become effective at the FERC, the utility shall promptly file an advice letter passing through those rate decreases into retail rates as of the effective date of the rate decrease authorized by the FERC. Such rate decreases shall be effective on the FERC-effective date, even if there has been no Staff or Commission action on the advice letter.
11. Where the FERC directs refunds of rates previously passed through to customers, the utility shall file, within 30 days of the FERC action, an advice letter proposing a method for these refunds to be passed through

into retail rates. Refunds shall commence as soon as authorized by the FERC, subject to Staff and, if necessary, Commission review.

COMMENTS

Public Utilities Code section 311(g) (1) generally requires resolutions to be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this Resolution has been issued for public review and comment.

FINDINGS

1. On numerous occasions the utilities have filed advice letters requesting revisions to FERC-authorized electric transmission rates that have had to be suspended until the Commission could approve the rate adjustments by Resolution.
2. Electric transmission revenue requirements and associated rates are subject to FERC jurisdiction.
3. Presently, the CPUC's role is to represent the interests of California consumers before the FERC.
4. The CPUC routinely files as an intervener in the proceedings at FERC.
5. The filed rate doctrine provides for a pass through to the utilities' customers of these FERC-jurisdictional transmission rates that are filed with and become effective at the FERC.
6. In light of the filed rate doctrine, it is just and reasonable for the utilities to recover through retail rates the transmission rate increases that have been filed with and become effective at the FERC; provided that those rate adjustments are subject to refund to the same extent as they are at the FERC.
7. Implementing a transmission rate increase should not result in an increase in overall rates for residential Tiers 1 and 2 above AB 1X limitations.
8. A Process has been developed, as described in this Resolution, for PG&E, SDG&E, and SCE to pass through to their customers rate changes for transmission costs that have been filed with, and become effective at, the FERC.

9. The utilities should file advice letters with the CPUC concurrent with their filing at the FERC to allow this Commission sufficient time to act, with supplements as necessary.
10. Energy Division should be authorized, to the maximum extent feasible, to approve advice letters and supplements requesting pass through of transmission rates that are effective at the FERC.
11. Energy Division does not need to bring a Resolution before the Commission if certain conditions are met, as specified in Element No. 6 of the Process described above.
12. In the event FERC authorizes different rates than requested, the utilities will immediately file an advice letter or supplement to adjust their rates prospectively as ordered by the FERC.
13. Where rate decreases become effective at the FERC, the utility should promptly file an advice letter passing through those rate decreases into retail rates as of the effective date of the rate decrease authorized by the FERC. Such rate decreases shall be effective on the FERC-effective date, even if there has been no Staff or Commission action on the advice letter.
14. Where the FERC directs refunds of rates previously passed through to customers, the utility should file, within 30 days of the FERC action, an advice letter proposing a method for these refunds to be passed through into retail rates. Refunds shall commence as soon as authorized by the FERC, subject to Staff and, if necessary, Commission review.
15. In the case of a transmission rate increase, if between the filing date of the advice letter or supplement and the effective date of the FERC rates, Staff has not approved the advice letter or supplement and the Commission has not approved a resolution, the FERC rates shall go into effect on the FERC-effective date.
16. If there is an allocation issue on which the Commission has not articulated a policy, the utility may propose an interim method of allocation. The CPUC Energy Division may authorize the utility to implement the rate change subject to the conditions that the revenues so collected will be tracked separately and be subject to possible refund upon the Commission's decision on any disputed allocation issue if necessary.

THEREFORE IT IS ORDERED THAT:

1. The Process described in the Paragraphs numbered 1 through 11 in the Discussion Section of this Resolution for pass through of transmission rate changes that are filed by PG&E, SDG&E, and SCE with the FERC, and become effective at the FERC, is approved.
2. To the extent authorized by Element No. 6 of the Process approved in this Resolution, Energy Division shall be authorized to approve advice letters and supplements requesting pass through of rates that are effective at the FERC without bringing a Resolution before the Commission.
3. The Process approved in this Resolution is effective today.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 26, 2005; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

April 25, 2005

ID# 4561
E-3930
May 26, 2005

TO: PARTIES TO A.04-06-024 for PG&E; A.04-12-014 for SCE; and
A.05-02-019 for SDG&E

Enclosed is draft Resolution E-3930 of the Energy Division. It will be on the agenda at the May 26 Commission meeting. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

A copy of the comments should be submitted to:

Eric Greene
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200
Email: eg1@cpuc.ca.gov

Any comments on the draft Resolution must be received by the Energy Division by May 17, 2005. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on May 19, 2005, two days after comments are filed, and shall be limited to identifying misrepresentations of law or fact in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Gurbux Kahlon
Program Manager
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-3930 on all parties in these filings or their attorneys as shown on the attached list.

Dated April 25, 2005 at San Francisco, California.

Jerry Royer

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.